IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 19425 of 1995

Between:

Jetti Sriramulu, s/o.Ramaiah, aged:45 years, Resident of

cuddapah Town, cuddapah District.

..... PETITIONER

AND

The Commissioner, Cuddapah Municipality,

Cuddapah District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in making attempts to remove/demolition of the shop of the petitioner situated at Trunk Road by the side of Manju Bar and Restaurant (by the side of Door No.5-370), Cuddapah Town, cuddapah District and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.C.Damodar Reddy.

Counsel for the Respondent : Mr. K.MAHENDER REDDY

The Court made the following :

O R D E R:

Heard.

2. This writ petition is filed to declare the action of the respondent in attempting to demolish the shop of the petitioner situated at Trunk Road by the side of Manju Bar and restaurant (by the side of door No.5-370), Cuddapah, town as arbitrary and illegal.

3. From the above prayer and from the writ affidavit and also from the submissions of the counsel for the petitioner it appears that this writ petition is filed basing only on the apprehension of the petitioner and no real cause of action is made out. From the perusal of the writ affidavit it appears that the bunk of the petitioner is raised on the road margin and as such it is an encroachment. In such an event, the respondent is duty bound, as per law, to remove such illegal encroachments in the interest of general public.

4. Further, in the counter affidavit it is stated that the bunk of the petitioner is situated in the midst of busy and important road of Cuddapah Town, where there is heavy traffic and causing much inconvenience for the free flow of traffic.

5. From the above, it is clear that the bunk of the petitioner, which appears to be an encroachment, is causing inconvenience to the general public. However, while resorting to any action, it is always imperative for the respondent to follow the due process of law. As noted above, since this writ petition is filed basing only on the apprehension, the same is disposed of with the following direction:

While resorting to any action of removal or demolition of the bunk of the petitioner, the respondent shall follow the due process of law.

6. In the circumstances of the case, there shall be no order as to costs.

AVS/**VS** ----------

05.08.2004

To

1. The Commissioner, Cuddapah Municipality,

Cuddapah District.

2. 2 C.D. copies.

THE HON'BLE MR JUSTICE D.S.R.VARMA

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Dated: 05-08-2004